IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 25224 of 2007(C)

PETITIONER:

RAMACHANDRAN,
S/O.GOPALAN AGED 55
AMBAKADIYIL,
MUTHUKULAM, NORTH,
MUTHUKULAM VILLAGE.

BY ADV. SRI.K.R.SUNIL

RESPONDENTS:

THE PREVENTIVE OFFICER,
EXCISE RANGE OFFICE,
KAYAMKULAM, REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/08/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

W.P.C.No.25224 of 2007

Dated this the 18th day of August 2007

J U D G M E N T

The petitioner faces indictment in a prosecution under Sections 8 and 55 of the Kerala Abkari Act. The prosecution evidence has already been adduced. The petitioner has been examined under Section 313 Cr.P.C on 7/8/2007 and on 8/8/2007, the petitioner filed a list of defence witnesses. Accepting the prayer of the petitioner, summons was issued to one of the witnesses. Altogether there were two witnesses to be examined. On 16/8/2007, the accused was present. The witnesses were also present; but unfortunately counsel for the accused was not present when the case was called. According to the petitioner, his counsel was engaged in another court and that is why he could not be present. In as much as there was no one to examine the defence witnesses and the accused could not examine those witnesses, it is submitted that the defence witnesses were sent back by the court and the matter was posted for hearing to this day which has been adjourned from today to 20/8/2007 for hearing arguments.

2. The short submission of the learned counsel for the petitioner is that he may be granted an opportunity to examine both these witnesses on 20/8/2007. It causes embarrassment to the learned counsel and failure of justice as against the accused, submits the learned counsel for the petitioner.

3. Having considered all the relevant circumstances, I am satisfied that the prayer of the petitioner can be allowed. There shall hence be a direction that the court below shall permit the petitioner to examine both the defence witnesses who shall be produced by the petitioner as agreed by his counsel on 20/8/2007. The court below shall thereafter dispose of the case, in accordance with law.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007